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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,753	09/23/2003	James L. McArdle	58717US002	1787
32692	7590	12/21/2004	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			MARCHESCHI, MICHAEL A	
			ART UNIT	PAPER NUMBER
			1755	
DATE MAILED: 12/21/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/668,753

Applicant(s)

MCARDLE ET AL.

Examiner

Michael A Marcheschi

Art Unit

1755

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

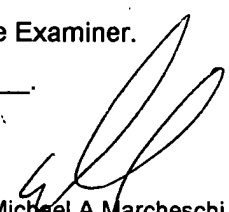
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8, 10-29 and 31-34.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Michael A Marcheschi
Primary Examiner
Art Unit: 1755

Continuation of 5. does NOT place the application in condition for allowance because: applicants argue that the two Hoopman et al. references do not teach the claimed invention in view of the unexpected results (i.e. recognize the benefits of the claimed combination of abrasive size and composite height (topography)). Although the benefits might not be defined, this does not establish patentability for the claimed invention in the absence of criticality for the claimed combination abrasive sizes and composite heights (topography). The examiner acknowledges the examples of the instant invention but these examples are compared to an abrasive article, wherein no composite heights (topography) are defined. At most, the examples might show criticality for the claimed combination of abrasive sizes and composite heights (topography) when compared to articles that do not define any composite height. Since both references teach literal composite height in combination with literal abrasive particles sizes, applicants evidence is not convincing because said evidence does not compare the claimed combination to combination of sizes and heights that are outside the claimed ranges (i.e. the comparative examples do not define any composite height, thus the examiner is unclear as to how they can be used to establish criticality when the references specifically teach composite heights. In other words, applicants have not compared the claimed invention to the abrasive articles of the references applied. The references teach all of the claimed components and abrasive sizes and composite heights which encompass the claimed values and no comparison of these values with the claimed values has been provided, therefore no distinction is seen to exist. With respect to the shape, the primary references state that the composites can be any shape, thus making the claimed limitation of a parabolic shape obvious. In summary, since the references teach abrasive composites which encompass the claimed height and abrasive size limitations, it is the examiners position that the claimed cut rates are expected and therefore obvious because abrasive products (containing abrasive composites that can be the same with respect to the height and abrasive size) is expected to yield the same cut rates and applicants have not provided any evidence supporting patentability (evidence showing criticality for the claimed ranges).


MICHAEL MARCHESCHI
PATENT EXAMINER